

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BENJAMIN BALLOUT,

Plaintiff,

Case No. 20-cv-12962
Hon. Matthew F. Leitman

v.

SMALL BUSINESS
ASSOCIATION, *et al.*,

Defendants.

**ORDER (1) OVERRULING OBJECTIONS TO REPORT AND
RECOMMENDATION (ECF Nos. 11, 12); (2) ADOPTING
RECOMMENDED DISPOSITION OF REPORT AND
RECOMMENDATION (ECF No. 10); (3) DENYING PLAINTIFF'S
MOTION TO QUASH (ECF No. 9); AND (4) DISMISSING ACTION
WITHOUT PREJUDICE**

In this action, Plaintiff Benjamin Ballout brings claims against the United States Small Business Association (the “SBA”) and several employees of the SBA. (*See* Compl., ECF No. 1.) On April 23, 2021, the assigned Magistrate Judge issued a report and recommendation in which he recommended that the Court dismiss this case without prejudice due to Ballout’s failure to properly serve any of the Defendants with the Summons and the Complaint (the “R&R”). (*See* R&R, ECF No. 10.) The Magistrate Judge also recommended that the Court deny Ballout’s March 22, 2021, motion to quash. (*See id.*)

On May 11, 2021, Ballout filed what he titled “Motion for Process by the Plaintiff(s).” (*See* Mot., ECF No. 11.¹) The Court construed Ballout’s motion as objections to the R&R. (*See* Order, ECF No. 13.) In the objections, Ballout appeared to indicate that, contrary to the Magistrate Judge’s findings, he did serve the Defendants with the Summons and the Complaint. (*See* ECF Nos. 11, 12.) And Ballout insisted that because the Defendants have not appeared in this action, the Court should enter a default against them. (*See id.*) But Ballout did not, for each Defendant individually, specifically identify how or when he served the Summons and the Complaint, nor did he present any evidence to support his apparent suggestion that he properly served the Defendants.

On May 18, 2021, the Court directed Ballout to supplement his objections. (*See* Order, ECF No. 13.) In that order, the Court told Ballout that, by no later than June 28, 2021, he was required to submit a “signed declaration or affidavit that is sworn under oath and under the penalty of perjury and contempt of court” that “[identif[ied], on a Defendant-by-Defendant basis (*i.e.*, each Defendant shall be listed separately), (1) when he served each Defendant with the Summons and the Complaint and (2) by what manner he served each Defendant with the Summons and the Complaint.” (*Id.*, PageID.59.) The Court also directed Ballout to “submit with his supplement any and all additional evidence – *e.g.*, records of certified mailings,

¹ A second, identical copy of this filing has been docketed as ECF No. 12.

etc. – that Ballout ha[d] to support his apparent contention that he served each Defendant with the Summons and the Complaint.” (*Id.*) Finally, the Court told Ballout that if he did not “comply with this order and/or if his response [was] insufficient to persuade the Court that he ha[d] served the Defendants with the Summons and the Complaint, the Court [would] adopt the recommended disposition of the R&R and dismiss this action without prejudice.” (*Id.*, PageID.60.)

Ballout has not responded to the Court’s May 18, 2021, order to supplement his objections. Nor has he contacted the Court to ask for additional time to comply with that order. Accordingly, due to Ballout’s failure to comply with the Court’s May 18, 2021, order, and all of the reasons stated above and stated in that order, **IT**

IS HEREBY ORDERED that:

- Ballout’s objections to the R&R (ECF Nos. 11, 12) are **OVERRULED**;
- The Magistrate Judge’s recommended disposition of this action described in the R&R (ECF No. 10) is **ADOPTED**;
- Ballout’s motion to quash (ECF No. 9) is **DENIED**; and
- This action is **DISMISSED WITHOUT PREJUDICE**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: July 13, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 13, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9761